

**DETAILED ACTION**

1. The amendment filed 6/2/2011 has been entered.

***Specification***

2. The objection to the title of the invention has been removed.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

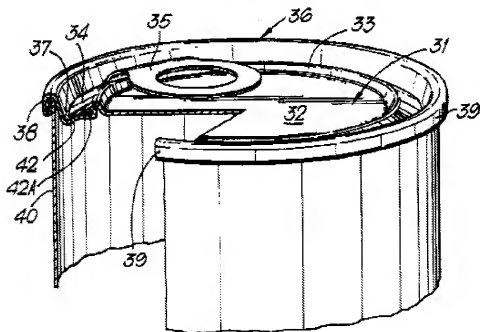
4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 6-7, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ramsey et al. as applied to claims 1, 6, and 7 above, and further in view of U.S. PG Pub No. 2002/0050493 (Ball et al. hereinafter).
6. In re claim 6, with reference to Figs. 6 and 7 below, Ramsey et al. discloses a product capable of having its in-can pressure controlled during thermal processing, comprising: bonding a panel (31) to an inclined seal surface of an annular component

(42), the inclined seal surface of the annular component being initially at an angle of from 10° to 60° (Ramsey discloses an angle of 120° from the wall, which is 30° from the horizontal when measured as in the current application, column 4, line 65); stretching the panel (lid panel "distends" under pressure, column 4, lines 59-62); fixing the annular component and panel bonded thereto to a filled can (column 4, lines 44-55); processing the contents of the filled and closed can by heating to temperatures of up to 135°C (column 4, line 18); and providing, at least during the processing step, a generally dome shaped profile to the panel ("distends") so as to provide an increase in can volume approximately equal to thermal expansion of the contents and gases in any headspace within the can (column 4, lines 59-62).

Fig. 6.





required by the user as taught by Ball et al. Note that since both configurations of the flange are disclosed in the prior art, it would have been obvious to have included the step of re-configuring the flange from the one known state to the second known state to achieve the known advantages associated with each state.

10. In re claim 7, with reference to the Figs. above, Ramsey et al. in view of Ball et al. discloses the claimed method further comprising stretching ("distends") the panel into a beaded profile which matches the fibre length of the generally domed shaped profile provided during thermal processing.

11. In re claim 16, with reference to the Figs. above, Ramsey et al. in view of Ball et al. discloses the claimed invention including wherein discloses a product capable of having its in-can pressure controlled during thermal processing, comprising: bonding a panel (31) to an inclined seal surface of an annular component (42), the inclined seal surface of the annular component being initially at an angle of from 20° to 60° (Ramsey discloses an angle of 120° from the wall, which is 30° from the horizontal when measured as in the current application, column 4, line 65); stretching the panel (lid panel "distends" under pressure, column 4, lines 59-62); fixing the annular component and panel bonded thereto to a filled can (column 4, lines 44-55); and providing, at least during the processing step, a generally dome shaped profile to the panel ("distends") so as to provide an increase in can volume approximately equal to thermal expansion of the contents and gases in any headspace within the can (column 4, lines 59-62); and reducing the seal surface angle to a shallower angle than the initial angle of the seal surface after the processing step (as in re claim 6 above).

12. Ramsey et al. in view of Ball et al. fails to disclose processing the contents of the filled and closed can by heating to temperatures of up to 129°C.

13. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have heated the contents to a temperature of up to 129°C, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. In re Aller, 105 USPQ 233. Please note that in the instant application, applicant has not disclosed any criticality for the claimed limitations.

14. In re claim 17, with reference to Figs. 6 and 7 above, Ramsey et al. in view of Ball et al. discloses the claimed method further comprising stretching ("distends") the panel into a beaded profile which matches the fibre length of the generally domed shaped profile provided during thermal processing (as in re claim 7 above).

15. In re claims 18 and 19, with reference to the Figs. above, Ramsey et al. in view of Ball et al. discloses the claimed invention including wherein the inclined seal surface of the annular component is initially at an angle of from 20° up to 45° (30°, as in re claim 16 above).

#### ***Response to Arguments***

16. Applicant's arguments filed 6/2/2011 have been fully considered but they are not persuasive.

17. Applicant argues on page 7 of the Remarks that Ball et al. provides no teaching of "reducing" the seal surface angle. However, in addition to the response to the previous arguments of record, it is clear that one of ordinary skill in the art at the time of

the invention choosing to benefit from the conditions from the teachings of Ball et al. and Ramsey would immediately find it necessary to reform the angle from that of Ramsey to that of Ball et al. as an obvious transition from one known configuration to another.

18. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

### ***Conclusion***

19. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW T. KIRSCH whose telephone number is (571)270-5723. The examiner can normally be reached on M-Th, 6:30am-5pm, off Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ANDREW T KIRSCH/

Examiner, Art Unit 3781

/Anthony Stashick/  
Supervisory Patent Examiner, Art  
Unit 3781

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